

KATHLEEN CUNNINGHAM
Claimant

Insurance Carrier

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

¹ Gary Peterson retired effective March 31, 2003, and a replacement had not been appointed to complete his expired term.

ISSUES

The specific issues raised by claimant in her Amended Request for Review are:

- “(1) Administrative Law Judge Bruce Moore’s failure to award benefits to the claimant.
- “(2) The recusal of Administrative Law Judge Bruce Moore from this and all of claimant’s attorney’s cases.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary file contained herein, the Board finds as follows:

The Award sets out findings of fact and conclusions of law in some detail and it is not necessary to repeat those herein. The Board adopts those findings and conclusions as its own insofar as they do not contradict the findings and conclusions contained herein.

The parties stipulated that claimant suffered accidental injury on February 18, 1998, when her hand was caught and pulled into a machine. Respondent denied that claimant suffered any permanent injury as a result of that accident and the Administrative Law Judge agreed. However, the Administrative Law Judge went on to deny benefits entirely for the accident of February 18 and for the series of accidents through October 4, 2000. The Board finds that the Award of the Administrative Law Judge should have granted claimant medical treatment for the hand injury upon application to and approval by the Director for any resulting problems which might arise with that hand. In that way, the Award of the Administrative Law Judge denying claimant benefits is modified.

Additionally, claimant raised to the Board the issue of the recusal of the Administrative Law Judge from all cases involving claimant’s attorney.

K.S.A. 2002 Supp. 44-523(e) sets forth the procedure to be followed if a party or party’s attorney believes that an administrative law judge to whom a case is assigned cannot afford that party a fair hearing in the case. The appeal of that dispute, once it has gone beyond the Administrative Law Judge, is to the district court of the county in which the accident occurred. The Board is not involved in that appeal process. Therefore, claimant’s appeal on that issue to the Board is dismissed.

In all other regards, the Board finds that the Award of the Administrative Law Judge is appropriate and adopts the findings and conclusions contained therein as its own.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the August 19, 2002 Award of Administrative Law Judge Bruce E. Moore should be modified to grant claimant medical benefits upon application to and approval by the Director for the February 18, 1998 accident and dismisses claimant's appeal with regard to claimant's request for recusal of the Administrative Law Judge. In all other regards, the Award of the Administrative Law Judge is affirmed.

IT IS SO ORDERED.

Dated this ____ day of July 2003.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Roger A. Riedmiller, Attorney for Claimant
Melvin J. Sauer, Jr., Attorney for Respondent
Bruce E. Moore, Administrative Law Judge
Paula S. Greathouse, Director